IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH JAIPUR.

O R D E R

Sharwan Lal
Vs.
A.D.J. No.3, Ajmer. & Ors.

S.B. CIVIL WRIT PETITION NO.6263/2003.

Date of Order:- 9/4/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri S.K. Saksena for the petitioner.
Shri M.M. Ranjan for the respondents.

****

Heard learned counsel for the parties.

This is a writ petition at the instance of plaintiff who has challenged the order dated 24/9/2003. Grievance of the petitioner is that although statement of the defendant were recorded but his cross-examination on behalf of the petitioner-plaintiff was closed and the matter was directed to be listed for

evidence of the petitioner-plaintiff on 1/11/2003.

Learned counsel for the petitioner submits that even though the defendant was examined on 24/9/2003 which was the first date fixed for the purpose, on that very day right of the plaintiff to cross-examine the defendant was forfeited.

On the other hand, learned counsel for the respondents has invited the attention of the court towards order-sheet of the learned court below dated 20/11/2003 and submitted that in fact the matter was fixed for the evidence of the defendants on 13/11/2002, 18/11/2002 and 21/3/2003 at earlier dates and therefore the contention of the learned counsel for the petitioner that 24/9/2003 was the first date for the evidence, cannot be accepted. This has been sought to be clarified by the learned counsel for the petitioner by stating that so far as 10/9/2003 is concerned, the work was suspended due to condolence of some advocate and on that date the evidence of

the plaintiff was being recorded and not of the defendant. Therefore it cannot be said that the evidence of the plaintiff was to be recorded on that date.

I have considered the arguments of the learned counsel for the parties. This matter has remained pending for last four years resulting into stay of the proceedings before the trial court. I therefore deem it appropriate to grant atleast one opportunity to the petitioner-plaintiff to cross-examine the defendant and his witnesses on or before 7/7/2007 subject to petitioner-plaintiff's paying Rs.500/- as cost to the defendant before the trial court.

With the aforesaid observations, the writ petition is allowed.

(MOHAMMAD RAFIQ), J.

anil